

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

January 17, 2013
Agenda Item No. 2

SUBJECT: Zoning Code Amendment Single Room Occupancy Residential Hotels
and Parking for Emergency Shelters - (PA2012-179)
▪ Code Amendment No. CA2012-009

APPLICANT: City of Newport Beach Planning Division

PLANNER: Melinda Whelan, Assistant Planner
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PROJECT SUMMARY

Pursuant to Housing Element Program HP 5.1.7, a Zoning Code Amendment to re-insert a definition of Single Room Occupancy (SRO) Residential Hotels and to add provisions that would permit SROs within the commercial and office zoning districts with the approval of a conditional use permit. Additionally, the amendment is to provide general parking standards for emergency shelters. Both were inadvertently excluded in the 2010 Zoning Code Update.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt the draft resolution recommending City Council approval of the Zoning Code Amendment No. CA2012-2009 regarding Single Room Occupancy (SRO) Residential Hotels and parking for Emergency Shelters (Attachment No. PC 1).

DISCUSSION

Single Room Occupancy (SRO) Residential Hotels

Background

During the 2010 Zoning Code update the definition and provisions for SRO's were inadvertently left out. Therefore, the City included Housing Program HP 5.1.7 in the adopted 2008-2014 Housing Element:

"Housing Program 5.1.7 Amend the Zoning Code to include a definition of Single Room Occupancy (SRO) Residential Hotels and add provisions that would permit SROs within the commercial and office zoning districts with the approval of a use permit. No standard set of conditions or use restrictions on SROs shall be established; instead, each application should be evaluated individually and approved based upon its own merits and circumstances."

Proposed Amendment

Implementation of HP 5.1.7 requires the following SRO definition is added to Chapter 20.70.020 Definitions of Specialized Terms and Phrases under *Visitor Accommodations*:

"No. 6. Single Room Occupancy, Residential Hotels (SRO) **SRO:** (HUD definition): Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests."

Add SRO as a use permitted with a Conditional Use Permit (CUP) within Section 20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements in Tables 2-4 and 2-5 under all of the Office and Commercial Districts. These changes are found in Attachment No. PC1 in Exhibit A.

Emergency Shelters

Background

In 2008 the state enacted SB2 which provides legislation that requires the City to designate zoning districts where emergency shelters (homeless shelters) will be allowed without requiring a use permit or other discretionary review. The Zoning Code provides two zoning districts, Private Institutions (PI) and Office-Airport (OA), which allow emergency shelters by right. Section 20.48.100 also establishes specific development standards. Parking requirements are referenced in 20.40.040, Table 3-10. However, parking for Emergency Shelters states "As required by conditional use permit". This is an inconsistency since emergency shelters are permitted by right with the PI and OA zoning districts.

Proposed Amendment

Based on the inquiries with homeless service providers, it is the consensus that many of the homeless they serve possess a vehicle. Staff conducted research with several cities within Orange County and found a typical parking standard to be 1 space per 4 beds plus 1 per staff. If the shelter i/s designed with rooms designated for family units then ½ a parking space per bedroom for these family units is consistent with the needs of the emergency shelter use. Staff has added these standards for the Emergency Shelter Use within Table 3-10 (Attachment No. PC 1 Exhibit A).

Environmental Review

All significant environmental concerns for the proposed project have been addressed in a previously certified environmental document (Negative Declaration for the Housing Element Update adopted by City Council on November 22, 2011), and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no mitigation measures that should be considered in conjunction with said project. Copies of the Negative Declaration for the 2008-2014 Housing Element Update are available for public review and inspection at the Planning Division in the Community Development Department or at the City of Newport Beach website under archived documents: <http://www.newportbeachca.gov/cegadocuments>.

Public Notice

Notice of this application was published in the Daily Pilot on January 4, 2012, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Melinda Whelan
Assistant Planner

Submitted by:


Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution including Exhibit A

: 07/31/12

Attachment No. PC 1

Draft Resolution including Exhibit A

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL APPROVAL OF ZONING CODE AMENDMENT NO. CA2012-009 REGARDING SINGLE ROOM OCCUPANCY RESIDENTIAL HOTELS AND PARKING FOR EMERGENCY SHELTERS (PA2012-179)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. In 2008 the state enacted SB2 which provides legislation that requires the City to designate zoning districts where emergency shelters will be allowed without requiring a use permit or other discretionary review.
2. The City adopted a comprehensive update of the Zoning Ordinance in October of 2010. The definition and Zoning Districts where Single Room Occupancy (SRO) Residential Hotels are allowed and a parking standard for emergency shelters were inadvertently excluded.
3. The 2008-2014 Housing Element includes Housing Program HP 5.1.7 committing the City to define SRO's within the Zoning Ordinance and permit SROs within the commercial and office districts as previously provided for; and identified that the City complies with the requirements of SB2. The 2008-2014 Housing Element included a certified Negative Declaration approved by City Council on November 22, 2011.
4. The Planning Commission conducted a public hearing on January 17, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

That all significant environmental concerns for the proposed project have been addressed in a previously certified environmental document (Negative Declaration for the Housing Element Update adopted by City Council on November 22, 2011), and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no mitigation measures that should be considered in conjunction with said project. Copies of the Negative Declaration for the 2008-2014 Housing Element Update are available for public review and inspection at the Planning Division in the Community Development Department.

SECTION 3. FINDINGS.

1. Amendment implements HP 5.1.7 by amending the Zoning Code to include a definition of Single Room Occupancy (SRO) Residential Hotels and add provisions that would permit SROs within the commercial and office zoning districts with the approval of a conditional use permit.
2. Establishes a reasonable parking requirement for emergency shelters.
3. Both amendments act to implement Goals and Programs of adopted 2008-2014 Housing Element.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby approves this Resolution recommending City Council approval of Code Amendment (CA2012-009), as provided in Exhibit A of this resolution, which is attached hereto and incorporated by reference.

PASSED, APPROVED AND ADOPTED THIS 17th DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT "A"

Revised Zoning Code Sections 20.20.020, 20.40.040 and 20.70.020

DRAFT

Amendment to Section 20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements to add the SRO Land Use to Tables 2-4 and 2-5:

TABLE 2-4 ALLOWED USES AND PERMIT REQUIREMENTS	Commercial Office Zoning Districts				
	Permit Requirements *				
	P Permitted by Right CUP Conditional Use Permit (Section 20.52.020) MUP Minor Use Permit (Section 20.52.020) LTP Limited Term Permit (Section 20.52.040) — Not allowed *				
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	OA	OG	OM	OR	Specific Use Regulations
Visitor Accommodations, Nonresidential					
Hotels, Motels, and Time Shares	CUP	—	CUP	—	
SRO Residential Hotel	CUP	CUP	CUP	CUP	

<p>TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS</p>	<p>Commercial Retail Zoning Districts</p> <p>Permit Requirements *</p>					
	<p>P Permitted by Right</p> <p>Conditional Use Permit (Section CUP 20.52.020)</p> <p>MUP Minor Use Permit (Section 20.52.020)</p> <p>LTP Limited Term Permit (Section 20.52.040)</p> <p>— Not allowed *</p>					
<p>Land Use</p> <p>See Part 7 of this title for land use definitions.</p> <p>See Chapter 20.12 for unlisted uses.</p>	CC	CG	CM	CN	CV	Specific Use Regulations
Visitor Accommodations						
Bed and Breakfast Inns	MUP	MUP	MUP	—	MUP	Section 20.48.060
Hotels and Motels	CUP	CUP	CUP	—	CUP	
RV Parks	—	—	—	—	CUP	
Time Share Facilities	—	CUP	—	—	CUP	Section 20.48.220
<u>SRO Residential Hotel</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	

Amendment to Section 20.40.040 Off-Street Parking Spaces Required Table 3.10 under the Emergency Shelter Land Use add the following:

TABLE 3-10

OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Emergency Shelter	<u>As required by Conditional Use Permit</u> <u>1 per 4 beds plus 1 per staff; and if shelter is designed with designated family units</u> <u>then ½ a parking space per bedroom designated for family units</u>

Amendment to Section 20.70.020 to add No. 6 to the following Visitor Accommodations (Land Use) definition:

“Visitor Accommodations (Land Use).

6. Single Room Occupancy, Residential Hotels (SRO) **SRO:** (HUD definition): Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

All other definitions within this Section remain the same and will be renumbered accordingly.

ADDITIONAL
MATERIALS
RECEIVED

Zoning Code Amendment

Single Room Occupancy Residential Hotels (SROs)

Parking for Emergency Shelters

Planning Commission
Public Hearing
January 17, 2013

STAFF PRESENTATION (PA2012-179)



Introduction



- Zoning Code Amendment
 - Re-insert Single Room Occupancy (SRO) Residential Hotels definition, permit SROs in Commercial and Office Districts with CUP
 - Add Parking Standard for Emergency Shelters

Background SRO



- Required by Government Code Section 65583 (c) (1)
- HCD required Housing Element Program HP 5.1.7 to re-insert definition and add provisions consistent with State Housing Element Law
- City Council approved the Housing Element including this program on November 22, 2011

Background Emergency Shelters



- Clean-up item parking standards left-out of Code Update
- Research conducted with other Cities and operators
- Common rate required and recommended rate:
 - 1 parking space/4beds + 1/staff
 - If shelter designed with rooms for family units then 1/2 a parking space per family unit bedroom



State Law



- 65583(c)(1)
-
- (c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
 - (1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

- **Housing Program 5.1.7** Amend the Zoning Code to include a definition of Single Room Occupancy (SRO) Residential Hotels and add provisions that would permit SROs within the commercial and office zoning districts with the approval of a use permit. No standard set of conditions or use restrictions on SROs shall be established; instead, each application should be evaluated individually and approved based upon its own merits and circumstances. (*Imp 2.1, 25.1*)
- *Responsibility: Planning Division, Planning Commission and City Council*
- *2008-2014 Objective: Adoption of the amendment shall be completed by the end of Fall 2011.*



For more information contact:

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PLEASE DISTRIBUTE AND ENTER INTO THE PUBLIC RECORD

To: City of Newport Beach-Planning Commission

From: Denys Oberman,

Subject: COMMENT-JANUARY 17,2013 PLANNING COMMISSION AGENDA

PUBLIC HEARING ITEM #2- ZONING CODE AMENDMENT TO ALLOW SINGLE ROOM OCCUPANCY
RESIDENTIAL HOTELS(SRO) and PARKING FOR EMERGENCY SHELTERS

City staff proposes to include a parking element for emergency shelters. We believe that this recommendation is acceptable.

SROs- City staff proposes that the Zoning Code be Amended to include a definition of SROs, and allow SROs within commercial and office zoning districts, subject to approval of a Conditional Use Permit(CUP).

We understand that SROs can serve a purpose as one solution to satisfy affordable housing goals. However, the SRO can also serve to facilitate the introduction of increased transient population, parolees and other boarding-house type facilities that the city currently does not permit .

We object to across the board zoning permitting SROs in any commercial or office zoned districts. In many commercial, zoning or mixed use districts, an SRO would be inappropriate and incompatible with planning objectives for the area, or be adverse to the social and economic integrity of the area. For example, SROs could be located in a specific radius near the airport, but should NOT be permitted in any area proximate to dense residential neighborhoods, schools, parks and beaches.

Furthermore, an SRO would have an environmental impact on the area(parking, noise,air quality particularly with smoking), so it should be required to establish environmental compliance.

We object to the establishment of SROs ,as there is no practical means of distinguishing the use from boarding house or parolee uses. There is no legal requirement mandating that the City allow SROs. In any event, SROs should ONLY be allowed in specifically-designated commercial /industrial areas, and NOT in any coastal or other dense residential or mixed use area. Additionally, they should not be permitted in coastal areas such as Balboa Peninsula, Lido and Balboa Islands, Corona del Mar and West Newport where there is high sensitivity to density and impact on neighborhood integrity.

Thank you for your consideration.

Comments on January 3, 2013 PC Meeting Agenda Item 2

The following comments on Item 2 on the January 17, 2013, Newport Beach Planning Commission agenda are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 2: Zoning Code Amendment Single Room Occupancy Residential Hotels and Parking for Emergency Shelters (PA2012-179)

Regarding the proposed resolution and the snippets of modified code presented as Exhibit A, we seem to have entered the brave new world permitted by the Measure EE changes to City Charter Section 418, which formerly required reenactment of the code sections “at length.”

Although this new, abbreviated process saves paper, it is apparent to me that deprives both the lawmakers and the public from seeing the proposed changes in context.

Having gone to the extra work of trying to determine where these proposed changes would go, I would like to make the following technical observations:

- On handwritten pages 11 and 12 of the 14 page staff report, the fragments of what purports to be Table 2-4 from Municipal Code Section 20.20.020 differs from the tables adopted in the Zoning Code adopted by Ordinance 2010-21 as signed by then Mayor Keith Curry and approved by then City Attorney David R. Hunt. Those tables erroneously made references to 20.66.080 and 20.66.090, which have been corrected here to 20.52.020 and 20.52.040. In a sense it is good that “errors” have been corrected, but at the same time it may be worrisome to some that changes can apparently be made without public knowledge or awareness, leaving one wondering what other parts of the publicly adopted legislation might be regarded as “errors” subject to change without notice in the on-line code?
- It is also difficult to verify the proposed insertions because the even-numbered pages of this part of the Zoning Code, which would presumably have included the “Visitor Accommodations, Nonresidential” sections of Tables 2-4 and 2-5 were omitted from the adopted ordinance (or, at least, if they are there they are out of sequence and I was unable to find them).
- On handwritten page 14, the statement that “*All other definitions within this Section remain the same and will be renumbered accordingly*” is a bit confusing since the definitions referenced were not numbered in the adopted Newport Beach Zoning Code. Checking on-line, someone appears to have numbered them there, and slightly modified their wording. Again, one wonders what else may have been changed?

I would further, and more importantly, like to make the following substantive comments:

- On handwritten page 3, I'm not sure I fully understand the proposed definition of "*Single Room Occupancy Residential Hotels*," nor the rationale for why they would be permitted "*in all of the Office and Commercial Districts*" rather than just the zones in which other transient/residential uses are allowed (referring to proposed Table 2-4) – that is, why are they the least restricted in location? This seems a failure of planning.
- On handwritten page 11, in Table 2-4, it seems a further oddity to have "*SRO Residential Hotel*" listed under the heading "*Visitor Accommodations, Nonresidential*". Perhaps this makes sense when seen in a larger context, but as presented, it does not.
- On handwritten page 13, I'm not sure I understand the intended meaning of the proposed *Off-Street Parking Requirement for Emergency Shelters*. Is it trying to say there is an **additional** requirement of ½ space for each bedroom in a "designated family unit"? Or, for designated family units, does that **replace** the 1 space per 4 beds requirement? I find the language unclear.
- On handwritten page 14, regarding the proposed definition of "*Single Room Occupancy, Residential Hotels (SRO) SRO*":
 - Is there supposed to be a comma between "*Single Room Occupancy*" and "*Residential Hotels*"?
 - Is the abbreviation "SRO" supposed to appear twice?
 - As to the substance of the definition itself, where does this wording come from? Why six and more rooms? Why the emphasis on kitchen facilities?
 - The text implies it is a HUD definition, but Googling on the text, the only place I can find a similar definition is in the Oceanside Municipal Code.
 - The US Census Bureau (<http://www.census.gov/srd/papers/pdf/ssm2006-03.pdf>) has pages of definitions including:
 - *Federal: "Single room occupancy housing' means a unit that contains no sanitary facilities or food preparation facilities, or contains one but not both types of facilities (as those facilities are defined in 887.251 (a) and (b), that is suitable for occupancy by an eligible individual capable of independent living."* [SOURCE: United States 1992 (USC 24CFR887.481 §. 887.481)]
 - *San Diego, California: "a facility with more than five sleeping rooms that is kept, used, maintained, advertised, or held out to the public as a place where sleeping rooms are offered on a single room occupancy (SRO) basis and intended for use as a primary*

residence for residential guests for a period of more than thirty days." [SOURCE: City of San Diego 2003 (Municipal Code 1301:7-5-08 (A) §124.1.2).]

- The California Health and Safety Code provides the following definitions: *"50519. (b) (1) "Residential hotel" means any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, which is primarily used by transient guests who do not occupy that building as their primary residence."*

17958.1. Notwithstanding Sections 17922, 17958, and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance. In all other respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part. "Efficiency unit," as used in this section, has the same meaning specified in the Uniform Building Code of the International Conference of Building Officials, as incorporated by reference in Chapter 2-12 of Part 2 of Title 24 of the California Code of Regulations."

- Note that all these definitions, other than the one in Oceanside, **allow** kitchen amenities.
 - Under our proposed definition, does a regular hotel become an SRO if a person lives there permanently? If six people use it as a residence, but the others are normal hotel guests? Conversely, does an SRO lose its SRO status if some of its occupants *don't* use it as their primary residence?
 - What category of use does an SRO become if it adds a kitchen? Or it has a kitchen to feed the residents, but it isn't "exclusive"?

Again, without seeing the proposed changes in a larger context, and perhaps even then, I find all of this very unclear.

Amendment to Section 20.70.020 to add No. 6 to the following Visitor Accommodations (Land Use) definition:

“Visitor Accommodations (Land Use).

6. Single Room Occupancy, Residential Hotels (SRO) **SRO:** (HUD definition): Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

All other definitions within this Section remain the same and will be renumbered accordingly.